

LEGISLATIVE BILL 267

Approved by the Governor April 30, 2003

Introduced by Tyson, 19; Aguilar, 35; Baker, 44; Byars, 30; Friend, 10; Hartnett, 45; Kremer, 34; McDonald, 41; Quandahl, 31

AN ACT relating to criminal history record checks; to amend section 53-131.01, Reissue Revised Statutes of Nebraska, and section 71-3205, Revised Statutes Supplement, 2002; to require checks for certain license applicants as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 53-131.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-131.01. (1) The application for a new license shall be submitted upon such forms as the commission may prescribe. Such forms shall contain (a) the name and residence of the applicant and how long he or she has resided within the State of Nebraska, (b) the particular premises for which a license is desired designating the same by street and number if practicable or, if not, by such other description as definitely locates the premises, (c) the name of the owner of the premises upon which the business licensed is to be carried on, (d) a statement that the applicant is a citizen of the United States, that the applicant and the spouse of the applicant are not less than twenty-one years of age, and that such applicant has never been convicted of or pleaded guilty to a felony or been adjudged guilty of violating the laws governing the sale of alcoholic liquor or the law for the prevention of gambling in the State of Nebraska, except that a manager for a corporation applying for a license shall qualify with all provisions of this subdivision as though the manager were the applicant, except that the provisions of this subdivision shall not apply to the spouse of a manager-applicant, (e) a statement that the applicant intends to carry on the business authorized by the license for himself or herself and not as the agent of any other persons and that if licensed he or she will carry on such business for himself or herself and not as the agent for any other person, (f) a statement that the applicant intends to superintend in person the management of the business licensed and that if so licensed he or she will superintend in person the management of the business, and (g) such other information as the commission may from time to time direct. The applicant shall also submit two legible sets of fingerprints to be furnished to the Federal Bureau of Investigation through the Nebraska State Patrol for a national criminal history record check and the fee for such record check payable to the patrol.

(2) The application shall be verified by the affidavit of the petitioner made before a notary public or other person duly authorized by law to administer oaths. If any false statement is made in any part of such application, the applicant or applicants shall be deemed guilty of perjury, and upon conviction thereof the license shall be revoked and the applicant subjected to the penalties provided by law for that crime.

Sec. 2. Section 71-3205, Revised Statutes Supplement, 2002, is amended to read:

71-3205. (1) Any person desiring to engage in the private detective business in the State of Nebraska and desiring to be licensed under sections 71-3201 to 71-3213 shall file with the secretary an application for a license. The application shall be made on a suitable form prescribed by the secretary; shall include the applicant's social security number if the applicant is an individual; shall be accompanied when filed by an application fee established pursuant to section 71-3204; shall be signed and verified by each individual connected with the applicant to whom the requirements of subsection (2) of this section apply; and may contain such information as may be required by the secretary. The applicant shall also submit two legible sets of fingerprints to the Nebraska State Patrol for a national criminal history record check through the Federal Bureau of Investigation.

(2) The secretary shall issue to the person if qualified therefor a nontransferable license to engage in the private detective business as a private detective, as a private detective agency, or as a plain clothes investigator in the State of Nebraska as follows:

~~(1)~~ If the applicant is an individual, the individual; ~~7~~ if the applicant is a corporation, each of its individual officers performing the duties of the president, the secretary, and the treasurer of the corporation and the duties of the manager of the business of the corporation in the State of Nebraska; ~~7~~ or if the applicant is any person other than an individual or a

corporation, each of the individual partners, members, managers, officers, or other individuals having a right to participate in the management of the applicant's business in the State of Nebraska.

(3) ~~The applicant, before the license may be issued,~~ shall be at least twenty-one years of age, a citizen of the United States, and of good moral character, temperate habits, and good reputation for truth, honesty, and integrity and shall have such experience and competence in the detective business or otherwise as the secretary may determine to be reasonably necessary for the individual to perform the duties of his or her position ~~with the applicant~~ in a manner consistent with the public interest and welfare.

(4) No license issued under sections 71-3201 to 71-3213 shall be issued or renewed to any person who in any manner engages in the business of debt collection in the State of Nebraska as licensee or employee of a licensee as provided in the Collection Agency Act. If any collection agency, or any person in the employ of such agency with knowledge of the owner or operator of such agency, engages in the business of a private detective or represents to others that he or she is engaged in such business, it shall be cause for suspension or revocation of such agency's license as a collection agency.

(5) Prior to the issuance of the license, the secretary shall notify the Nebraska State Patrol, and the patrol shall investigate the character and reputation of the applicant respecting his or her fitness to engage in the business of a private detective. Upon completion of the investigation, the patrol shall notify the secretary of the results of the investigation within ninety days after the date of the application. The license shall be issued by the secretary unless he or she has received within ninety days after the application is made for the license a report of investigation from the patrol stating that the applicant is not of the proper character and reputation to engage in the business of a private detective. ~~and~~

~~(2) The applications shall be made on a suitable form prescribed by the secretary, shall include the applicant's social security number if the applicant is an individual, shall be accompanied when filed by an application fee established pursuant to section 71-3204, shall be signed and verified by each individual connected with the applicant to whom the requirements of subdivision (1) of this section apply, and may contain such information, including specimens of fingerprints, as may be required by the secretary.~~

Sec. 3. Original section 53-131.01, Reissue Revised Statutes of Nebraska, and section 71-3205, Revised Statutes Supplement, 2002, are repealed.